the largeness of his vision and the fineness of his touch. At the highest, his work is poetic—that is, beautifully and significantly true; at the lowest, it is journalistic—that is, true to fact, to sense. But in every case, with the authentic artist, it is true to the actual proportions of life. It does not twist human nature around a theory; it does not summon facts to the service of a cause. Its motive must be inherent, unconscious—the soul of a living being, not the motive power of a machine.

When one can feel in any so-called work of art a purpose pushing from without, instead of animating from within, the work is a treatise and its author a moralizer. The book may sell by the hundred thousand, may hasten the march of events or change the course of history; in economics, politics or morals it may accomplish the purpose of its author and bring him both power and praise, but it does not belong, even historically, to art. Mr. Allen, in enumerating novels with a purpose, has jumbled together the living things and the machines—*Jane Eyre* and *Robert Elsmere*, *Ghosts* and *The Heavenly Twins*. Apparently he does not perceive the fundamental difference between them.

Thus an artist's "purpose" has nothing to do with the case. The most laudable purpose cannot make a picture beautiful nor a novel readable The noble purpose of emancipating the slaves, to which *Uncle Tom's Cabin* was dedicated, cannot give that book the importance in literature which it must always have in history. On the other hand, a purpose no more strenuous than that of the birds, who sing for very love of life, cannot rob Burns's lyrics of immortality, nor lessen by one laurel leaf the glory of Whistler, the greatest painter of our time.

Indeed, nothing is more dangerous to the true artist than a special purpose. It enters his mind only to take possession, to make him, for the time at least, a man of one idea; to destroy the serenity and impartiality necessary to art. At once it distorts his vision and narrows his range, so that his service falls from the immaculate and infinite beauty to some ism or issue of the day. And in falling it fails; for not wings, but hands, must perform these heavier labors.

One must climb to the highest standpoint to achieve the broadest view. No theory, no purpose should beguile the artist from his outlook upon the infinite. Let him behold and express; there are millions to fight and toil.

HARRIET MONROE.

THE SUPREME COURT OF THE UNITED STATES.

THERE is no institution in this country which has been surrounded with a greater degree of sanctity than the Supreme Court of the United States. No other institution has attained such an honored prestige or dignity as this august tribunal. The fountain of justice, the supreme arbiter of constitutional principles, interpreting and administering laws with rigorous equality, without fear or favor, this court has, with few exceptions, been kept aloof from party strife, and has escaped the fluctuations incident to a change of administration. Its stability and firmness have been the source of its strength.

In the present campaign, however, one of the great political parties has avowed its purpose to make the Supreme Court subservient to legislative will, and, consequently, to partisan principles. The Democratic platform adopted at Chicago contains this declaration:

"Until the money question is settled we are opposed to any agitation for further changes in our tariff laws, except such as are necessary to meet the deficit in revenue caused by the adverse decision of the Supreme Court on the income tax. But for this decision by the Supreme Court there would be no deficit in the revenue under the law passed by a Democratic Congress in strict pursuance of uniform decisions of that court for nearly 100 years, that court having in that decision sustained constitutional objections to its enactment which had previously been overruled by the ablest judges who have ever sat on that bench. We declare that it is the duty of Congress to use all the constitutional power which remains after that decision, or which may come from its reversal by the court as it may hereafter be constituted, so that the burdens of taxation may be equally and impartially laid, to the end that wealth may bear its due proportion of the expenses of the government."

This declaration indicates a line of policy which, if carried into practical effect, would virtually undermine our constitutional government by destroying its greatest safeguard.

The Constitution of the United States is the Magna Charta of our civil and political liberties, the very foundation upon which our system of republican government is laid. The Supreme Court is the bulwark of the Constitution, and is absolutely essential to the maintenance of a stable federal government. It was wisely constituted as a check upon legislative enactments, or to make such enactments conform to the letter and spirit of the Constitution. It was intended to restrain party spirit, or popular prejudice, expressed in State or national legislatures, by subjecting the work of such bodies to the calm and dispassionate judgment of an independent and high-minded judicial tribunal.

The Democratic platform lays down doctrines which are utterly repugnant to the principles of constitutional government. It forecasts a dangerous innovation, a revolutionary spirit. It strikes at the very root of our system of government. It seeks to undermine an institution which has been the sheet anchor of our federal union, and is the mainstay of the republic. It seeks to nullify or reverse the work of the framers of the Constitution by making the federal legislature the supreme judge of the constitutionality of its acts, and to deprive the Supreme Court of that time-honored prerogative, and to reduce it to a mere creature of legislative will and subject it to the dangerous influence of party expediency or caprice. The Democratic platform seems to contemplate such legislation as will enable Congress to reverse or nullify the decrees of the Supreme Court, and thus defeat the very purpose for which this court was organized.

The Supreme Court, as the solemn interpreter and exponent of the Constitution, and the supreme arbiter of all questions between State or municipal bodies or persons, is greater than the National Government itself. Deprive it of its ancient and legitimate prerogative of deciding constitutional questions, and the Constitution itself will be fatally undermined.

An examination of the provisions under which the Supreme Court was organized and expanded will show how it might be made subject to legislative will and divested of its legitimate functions. The Constitution of the United States provides that "the judicial power of the United States shall be vested in one Supreme Court and such inferior courts as Congress may from time to time ordain and establish." The jurisdiction of the Supreme Court is original and appellate. The original jurisdiction of this court

cannot be extended or limited by Congress. Such was the decision of this court in the case of Marbury v. Madison. But its appellate jurisdiction is subject to the Acts of Congress. Such jurisdiction is exercised "with such exceptions and under such regulations as Congress shall make." A creature of the Constitution, the Supreme Court has been reared and disciplined by Congress, and may be swayed by the decisive action of that body. It may be compelled to enforce the Acts of Congress, whether constitutional or not, or it may be reduced to a mere impotent tribunal, like the Senate of Rome in the time of the later emperors. The Act of Congress establishing judicial courts of the United States, approved September 24, 1789, provided that the Supreme Court "shall consist of a chief justice and five associate justices." A sixth justice was appointed pursuant to the Act of February 24, 1807, and two additional justices were appointed under the Act of March 3, 1837. Subsequently, under the Act of March 3, 1863, the court was augmented by the addition of a ninth justice, and such is the status of the court at the present time.

In England, where Parliament is the popular legislative body, the House of Lords is regarded as a stumbling block in the way of constitutional government. To overcome an adverse majority in the House of Lords, where the passage of a measure was demanded by the weight of public sentiment, the government sometimes resorted to the practice of creating new peers in order to carry the measure through the House of Lords. An analogous practice has been resorted to in this country on several occasions to render the United States Supreme Court subservient to legislative will. This has been accomplished by increasing or decreasing the number of justices. The Supreme Court was decreased under the Act of July 23, 1866, passed over the veto of President Johnson, which reduced the number of justices to six, by providing that the existing vacancies should not be filled. This measure was intended to prevent President Johnson from appointing justices whose views might not be in harmony with the policy of the dominant party in Congress.

The practice of rendering the Supreme Court favorable to legislative measures by increasing its numbers was resorted to when the validity of the Legal Tender Acts was sought to be upheld. These Acts of Congress, of February 25, 1862, March 3, 1863, and July 11, 1863, provided for the issuing of Treasury notes, and declared that the same should be lawful money and a legal tender in payment of all debts, public or private, except in certain specified cases. The constitutionality of this legislation came up for consideration by the Supreme Court in Hepburn v. Griswold (8 Wallace, U. S. Reports, 603), and the Court in 1869 declared the acts unconstitutional. The Chief Justice and four associate justices declared against the acts, and three justices dissented. Then the practice of expanding the court was resorted to. The Act of Congress of April 10, 1869, approved by President Grant, provided that the Supreme Court should consist of a Chief Justice and eight associate justices. Mr. Justice Grier, who voted against the validity of the Legal Tender Acts, had resigned, so that, under the Act of April 10, 1869, there were two vacancies in the court which were filled by President Grant by the appointment of Mr. Justice Strong and Mr. Justice Bradley, February 7, 1870. The Supreme Court, as thus constituted, reconsidered the Legal Tender Acts, in the case of Knox v. Lee (12 Wallace, U. S. Reports, 457), and the case of Hepburn v. Griswold was overruled, and the validity of the Legal Tender Acts was sustained.

Another method of influencing the decisions or averting action by the Supreme Court consists in limiting or cutting off its jurisdiction, and this has been done by Congress, even in cases pending before the Court. The status and powers of the Supreme Court may, as we have seen, be determined by Congress, except in case of its original jurisdiction. After the civil war, a case arose in the South, under the reconstruction acts, which seemed likely to test the constitutionality of those acts. The subject of reconstruction in the South was a live one fraught with serious consequences of a national character, and the validity of the reconstruction acts was a question of great importance to the dominant party in Congress seeking to carry out a well-defined policy. This was the case of *ex parte* McCardle, reported in 6 Wallace, 318, and 7 Wallace, 506. The appellant was in the custody of a military commission organized pursuant to the reconstruction acts in the State of Mississippi. On his application, a writ of *habeas corpus* was issued by the United States Circuit Court, but, on the hearing thereon, he was remanded to the custody of the commission. He then appealed to the Supreme Court of the United States, and his case was considered by that court, but before it could, or did, pronounce judgment thereon, the authors of the reconstruction acts, fearing an adverse decision, repealed the provisions of the law which permitted appeals from the Circuit to the Supreme Court on *habeas corpus* cases, and deprived the latter court of jurisdiction on appeals then taken. The result of this strategic movement was to oust the Supreme Court from jurisdiction in the McCardle and kindred cases, and prevent it from rendering a decision on that case, already considered by it. The legislative provision depriving the Supreme Court of appellate jurisdiction in *habeas corpus* cases, *including cases then before it*, being retroactive in force, was no doubt unconstitutional, but still that court, yielding no doubt to strong political pressure, held that the act in question was valid.

Thus we have seen that the Supreme Court, although created and secured by the Constitution, is limited in its scope and action by the powers of Congress, and is capable of being made a subservient tool of any party having control of Congress and the Executive, or a sufficient majority in Congress, without the Executive, and that in practice, such power of interference with the free exercise of the legitimate functions of the court, or of limiting or nullifying its acts, has actually been exercised in several instances.

The declaration of the Democratic platform in respect to the Supreme Court is somewhat nebulous, but from the passage, "we declare that it is the duty of Congress to use all constitutional power which remains after that decision, or which may come from its reversal by the court, *as it may hereafter be constituted*, and the character and expressed sentiments of those who framed this declaration, we may safely assume that if the Democratic party, as at present constituted and dominated, acquires the opportunity, it will not hesitate to strip the Supreme Court of its honored prestige and prerogatives and degrade it to the position of a servient creature of the Executive or legislative department of the government. Indeed, the very declaration itself indicates the anarchistic tendency of the entire Democratic platform, or a spirit of repudiation of valid obligations, and an avowed purpose on the part of its authors so to constitute the Supreme Court as to enable them to foist upon the country a debased currency and to make the same legal tender for all obligations, regardless of the conditions attached thereto.

The separate existence of the Supreme Court, as an integral part of the federal government, and the unrestricted exercise of its lawful functions, is necessary in order to maintain a parity of power between the executive and legislative departments. It should operate as a check upon the legislative department in passing improper laws, and upon the executive in enforcing such laws, or committing unconstitutional acts. In England the sturdy independence and exalted patriotism of Coke and other judges in resisting the tyranny of Charles II. laid the foundation for an enlightened constitutional government in that country.

The maintenance of the integrity of the Supreme Court is necessary in order to preserve the public credit and a sound currency, because of the fluctuation of party views. It would be useless for Congress to pass a free silver bill if the Supreme Court could disannul it. Hence, the declaration in the Democratic platform of an intention to make the Supreme Court conform to legislative will.

Why was this government enabled during the Civil War to borrow immense sums of money upon its individual credit? Simply because of the confidence of lenders at home and abroad in the power and determination of the Supreme Court to enforce such obligations according to their tenor. The Supreme Court, when unhampered in the exercise of its functions, has rendered our money and our credit good in every country of the globe. This court has likewise maintained the inviolability of private contracts. Its decision in the famous Dartmouth College case disannulling an act of the New Hampshire Legislature which deprived the trustees of that institution of their lawful rights, firmly established the validity of the constitutional provision that private contracts shall not be impaired. Upon the strength and permanency of this and kindred decisions of the Supreme Court depend the stability of all tenures or titles, and the obligations of contracts.

The maintenance of the Supreme Court as an independent judicial body, and the full free exercise by it of the legitimate functions conferred upon it by the Constitution and laws, is absolutely essential to the perpetuation and growth of our free institutions, and the stability of our republican government.

GEORGE A. BENHAM.

AN ELECTRIC FARM.

IT was never supposed by the early experimenters with electricity that their subtile agent could ever be made of any practical value to the farmers, but in the light of recent discoveries almost anything seems possible, if not probable, in the application of this fluid. Electric plows have been patented in Vienna, and electric hay-rakes, reapers, carts, and threshing machines have been placed upon exhibition in this country, and their utility tested favorably. Experimental farms have been established where nearly all the work has been performed by means of this powerful agent—fields plowed, harrowed, fertilized, and rolled, seeds planted and covered with soil, plants fertilized and weeds killed, and crops harvested and threshed. The power has been generated by erecting a large turbine wheel on some stream where the current could be depended upon to turn it. The cost of manufacturing the electricity has been reduced to a comparatively small sum in this way, and the prospects of conducting our farms in the future on an electric basis seem alluring and attractive.

But the most noticeable application of electricity to farming methods